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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,078	06/20/2003	Kenneth Roger Jones	1033-SS00380	7047
60533 7590 12/03/2008 TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759				
EXAMINER				
SOL, ANTHONY M				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/601,078

Applicant(s)

JONES ET AL.

Examiner

Anthony Sol

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

- Applicant's Amendment filed 9/9/2008 is acknowledged.
- Claims 1, 2, 9, 16, and 19 have been amended.
- Claims 1-19 remain pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Pub. No. US 2003/0231206 A1 ("Armstrong").

Regarding claims 1-4, 6, 9, 10, and 16-18,

AAPA discloses inquiring, from a remote location, a status of an upper-layer communication indicator, the upper layer communication indicator displayed at a customer premise equipment (CPE) device, wherein the status is observable by a visual inspection of the indicator by an end-user (see Applicant's specification, pg. 9, para. 1035, *However, in prior art systems, higher-level communications are often terminated internally to the transceiver, without indicating to the end-user if the communications were successful or not. In such systems, to determine communication status may*

require opening a web browser on a connect computer, logging in to the transceiver, and viewing information on communication status, for example, PPPoE authentication, via a graphical user interface (GUI). These extra steps require end-user involvement and increase troubleshooting costs – In other words, the service technician would remotely ask for assistance from the subscriber/customer in viewing communication status of PPPoE (an upper-layer communication) and relaying the information to the service technician); entering the status into data storage (this step would be inherent since a service technician's would input the communication status in order to determine the next step in the troubleshooting). **Note** that AAPA's discloses a GUI, which is a CPE device as claimed. **Note** also that Armstrong below further discloses that the CPE device is a modem/transceiver.

AAPA does not explicitly disclose performing a first set of actions when the status indicates valid upper-layer communication and performing a second set of actions when the status indicates invalid upper-layer communication.

Armstrong discloses in fig. 5, that when the ADSL Modem Main Page 500 shows a "PPPoE Status: Connected" 518 (claimed status indicates valid upper-layer communication), that the subscriber can "Close Window" 512 and continue Internet browsing (claimed performing a first set of actions)(see para. 58). Armstrong further discloses in fig. 6, Setup 610 which includes inputting Username 612 and Password 614 (claimed performing a second set of actions) in order to "Connect" 616 and "wait for the PPPoE light on the modem to turn solid green" (claimed when the status indicates invalid upper-layer communication and CPE is a transceiver)(see para. 59). **Note** that

the ADSL modem of Armstrong has a visual indicator that turns solid green when the PPPoE status is "connected," thus, both AAPA and Armstrong discloses a visual indicator that is observable by the end user as claimed and in particular Armstrong discloses that the CPE is a modem/transceiver as required in claims 2 and 9.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention was made to modify the troubleshooting method of AAPA to provide two sets of actions to be performed upon a visual inspection of upper-level communication status in a CPE such as a modem/transceiver as taught by Armstrong. One skilled in the art would have been motivated to make the combination to troubleshoot a DSL connection depending on communication status with the assistance of the customer using a user-friendly PPPoE light (see Applicant's spec., pg. 9, para. 1053 and Armstrong fig. 6).

Regarding claims 7, 8, 19,

AAPA discloses that when problems arise, trouble shooting typically involves the access provider sending a technician to a customer premise (see Applicant's spec, pg. 2, para. 1005).

Regarding claim 11,

AAPA shows in fig. 1, DSLAM 110.

Regarding claim 12,

AAPA discloses that LEDs provide low-level connection status (see Applicant's spec, pg. 2, para. 1006).

Regarding claim 13, 14, 15,

AAPA shows in fig. 5 various LEDs, all of which are admitted prior art, except PPPoE.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Armstrong, and further in view of U.S. Patent No. 6,981,039 B2 ("Cerami").

Regarding claim 5,

AAPA and Armstrong do not disclose that entering the status into data storage comprises a service technician entering data into an electronic job ticket.

Cerami discloses that a service technician creates a repair ticket (col. 10, lines 33-34). Cerami further discloses that proactive repair system 306 also may communicate with trouble ticketing system 308 to document the fault... in which the trouble ticketing system 308 also may receive fault indications from outside customers (col. 5, line 61 to col. 6, line 1).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention was made to modify the troubleshooting method of AAPA and Armstrong to create a repair ticket as taught by Cerami. One skilled in the art would

have been motivated to make the combination to trouble-shoot a DSL connection depending on communication status (see Applicant's spec., pg. 9, para. 1053).

Response to Arguments

4. Applicant's arguments filed 9/9/2008 have been fully considered but they are not persuasive.

- The applicant argues on pg. 6-8 in regards to independent claims 1, 9, and 16 that neither AAPA or Armstrong discloses an "upper layer communication indicator displayed at a customer premises equipment (CPE) device as recited in claims 1 and 16 or a "transceiver having a first status indicator configured for visual inspection by an end-user..."
- The examiner respectfully disagrees. In regards to claims 1 and 16, the claims only require that the "upper layer communication indicator" be "displayed at a customer premises equipment (CPE) device." The examiner maintains that a GUI qualifies as a CPE device as it is an "equipment" located at the "customer premises." Furthermore, even if, *in arguendo*, AAPA did not disclose a CPE device, Armstrong certainly does as she discloses a modem (claimed transceiver) that has a "PPPoE light on the modem [that] turns solid green" as required by claim 9 (see Armstrong, fig. 6, "*wait for the PPPoE light on the modem to turn solid green*"). See the rejection to claims 1, 9, and 16 for a more detailed rejection.

- The applicant argues on pg. 8 that Cerami does not disclose that "the upper-layer communication indicator [is] displayed at a CPE device." The applicant also contends that Cerami offers no motivation or suggestion of an end-user performing a visual inspection of a communication indicator to observe the status of upper-layer communications, since the fault management system disclosed by Cerami attempts to automatically detect and resolve problems.
- The examiner respectfully disagrees. Regarding whether Cerami discloses an "upper-layer communication indicator [is] displayed at a CPE device." is moot since it has been already established above that both AAPA and Armstrong discloses the aforementioned limitation. Regarding the issue of whether Cerami offers any motivation or suggestion of an end-user performing a visual inspection of a communication indicator to observe the status of upper-layer communications, since the fault management system disclosed by Cerami attempts to automatically detect and resolve problems, it appears that the applicant is contending that Cerami is nonanalogous art. In which case, in response to applicant's apparent argument that Cerami is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case,

AAPA, Armstrong, and Cerami are in the field of applicant's endeavor, which is troubleshooting a problem in the communications network. In addition, Cerami is concerned with one particular problem shared by the applicant, which is what to do with a customer call reporting a problem. As such, Cerami discloses a trouble ticketing system to document a fault which may come from outside customers (see Cerami, col. 5, line 61 to col. 6, line 1).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Sol whose telephone number is (571)272-5949. The examiner can normally be reached on M-F 7:30am - 4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/A. S./

Examiner, Art Unit 2419

/Wing F. Chan/

Supervisory Patent Examiner, Art Unit 2419

12/1/08